

**FALL TOWN MEETING WARRANT 2013**

**TOWN OF WALPOLE**

**COMMONWEALTH OF MASSACHUSETTS**

Norfolk, ss.

To any constable in the Town of Walpole

Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the inhabitants of the Town of Walpole, qualified to vote in elections in town affairs, to meet in the Auditorium of the Walpole High School in said Walpole on

**THE THIRD MONDAY IN OCTOBER, IT BEING THE  
TWENTY-FIRST DAY OF SAID MONTH, 2013**

at 7:30 p.m. then and there to see if the Town will vote to amend the By-laws and Zoning By-laws to said Town and act on the following articles:

**ARTICLE 1:** To hear and act on the report of any committee or to choose any committee the Town may think proper and transact any other business that may legally come before the Town. (Petition of the Board of Selectmen)

**ARTICLE 2:** To see if the Town will vote to raise and appropriate, borrow, transfer to and/or from FY 2014 accounts appropriated at the 2013 Spring Annual Town Meeting, and/or transfer from available funds sums of money to defray departmental and incidental expenses of the Town for the fiscal year 2014 commencing July 1, 2013, or to take any action in relation thereto. (Petition of the Board of Selectmen)

**ARTICLE 3:** To see if the Town will vote to transfer from Free Cash, a supplemental sum of money, said funds collected from Medicaid reimbursements, for the FY' 2014 School Budget, or to take any action in relation thereto. (Petition of the School Committee)

**ARTICLE 4:** To see if the Town will vote to transfer from available funds a sum of money for the FY14 School Budget representing amounts paid into the General Fund for student parking, or to take any action in relation thereto. (Petition of the School Committee)

**ARTICLE 5:** To see if the Town will vote to raise and appropriate, and/or transfer such sum or sums of money as may be required for payment of unpaid bills of previous years, incurred by the departments, boards, and officers of the Town of Walpole, or to take any action relative thereto. (Petition of the Board of Selectmen)

**ARTICLE 6:** To see if the Town will vote to raise and appropriate, borrow and/or transfer a sum or sums of money as may be required for the purchase of capital equipment, including but not limited to vehicles, machinery, and computer/network systems, for the various departments of the Town of Walpole or take any action in relation thereto. (Petition of the Board of Selectmen)

**ARTICLE 7:** To see if the Town will vote to raise and appropriate, borrow and/or transfer a sum or sums of money to resurface, repair and/or reconstruct certain streets and/or sidewalks, to make drainage improvements in certain Town roads, and to rebuild certain manholes and catch basins in the Town or to take any action in relation thereto. (Petition of the Board of Selectmen)

**ARTICLE 8:** To see if the Town will vote to raise and appropriate, borrow and/or transfer a sum or sums of money to implement a Capital Improvement Program, to protect, improve, and/or modify the physical infrastructure, including but not limited to municipal buildings, facilities, parking lots, fields and other properties, of the Town of Walpole, or to take any action in relation thereto. (Petition of the Board of Selectmen)

**ARTICLE 9:** To see if the Town will vote to raise and appropriate or transfer a sum or sums of money from available funds for the purpose of supplementing the Stabilization Fund as authorized by Chapter 40, Section 5B of the Massachusetts General Laws as amended, or to take any action relative thereto. (Petition of the Board of Selectmen)

**ARTICLE 10:** To see if the Town will vote to raise and appropriate or transfer a sum or sums of money from available funds for the purpose of supplementing the fund known as the Other Post Employment Benefits Liability Trust Fund (OPEB) as authorized by Chapter 32B, Section 20 of the Massachusetts General Laws, or take any action relative thereto. (Petition of the Board of Selectmen)

**ARTICLE 11:** To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow, a sum of money for the purpose of providing for design, engineering, construction and inspection services for the Turner Pond Dam Repair Project, and to authorize the Board of Selectmen to apply for and accept grant and/or loan funds from the Commonwealth, or act or do anything in relation thereto. (Petition of the Board of Selectmen)

**ARTICLE 12:** To see if the Town will vote to appropriate, and authorize the Treasurer, with the approval of the Board of Selectmen, to borrow the sum of \$ 251,099, for the purpose of improvements to Memorial Park consisting of 24.10 acres, more or less, as shown on Assessor’s Map 33, Lot 39; that said land continues to be dedicated to park and recreation purposes under the provisions of Massachusetts General Laws, Chapter 45, Section 14; and the Board of Selectmen be authorized to file on behalf of the Town any and all applications deemed necessary for grants and /or reimbursements from the Commonwealth of Massachusetts deemed necessary under the Urban Self-Help Act (301 CMR 5.00) and/or any others in any way connected with the scope of this Article, and the Board of Selectmen be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of Town to affect said project. Or to act or do anything in relation thereto. (Petition of the Board of Selectmen).

**ARTICLE 13:** To see if the Town will vote to amend the Zoning Bylaw for the purpose of regulating the locations of medical marijuana facilities by adding a new use to SECTION 5-B. SCHEDULE OF USE REGULATIONS, Table 5-B.1. Use Table, 4. BUSINESS so that it reads as follows:

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
ee. Any Medical Marijuana Treatment Center defined in Section 14 of the Bylaw and under the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000, provided that such use is no less than five hundred (500) feet from a parcel containing a school, religious institution, residence, licensed registered daycare facility, playground, park, recreation center, youth center or any established facility in which children commonly congregate.	X	X	X	X	X	X	X	X	X	SPZ	6

And to further amend the Zoning Bylaw by making the following addition and changes to SECTION 14: DEFINITIONS:

Add the following new definition:

MEDICAL MARIJUANA TREATMENT CENTER– A not-for-profit entity registered under 105 CMR 725.100, to be known as a registered marijuana dispensary (RMD), that

acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

And amend the definitions of AGRICULTURE, FLORICULTURE, AND HORTICULTURE, VITICULTURE AND SILVACULTURE and MEDICAL OR DENTAL LABORATORIES by adding the following sentence to each (**added text in bold italics and underlined**):

AGRICULTURE, FLORICULTURE, AND HORTICULTURE, VITICULTURE AND SILVACULTURE – A use which has as its principal purpose the raising of agricultural products for commercial or home use, but not including the raising of livestock or farm animals on parcels of less than five (5) acres, and not including the sale of products, unless raised on the premises or as otherwise allowed under G.L.c.40A, §3. **Agriculture shall not include any uses or activities associated with a Medical Marijuana Treatment Center as defined elsewhere in this section.**

MEDICAL OR DENTAL LABORATORIES – A building or group of buildings used for the offices and facilities accessory to the practice of licensed medical practitioners, (including physicians, dentists, optometrists, ophthalmologists, and persons engaged in all fields related generally to medicine, but not including veterinarians) and including such common facilities as an outpatient clinic or emergency treatment rooms, but not including inpatient facilities. **Medical Laboratories shall not include any uses or activities associated with a Medical Marijuana Treatment Center as defined elsewhere in this section.**

Or to act or do anything in relation thereto. (Petition of the Board of Selectmen).

**ARTICLE 14:** To see if the Town will vote to amend the official Code of the Town of Walpole by adding a new Section 468 entitled “Social Host Responsibility”, the text of which is as follows:

Section 468-1: Purpose

It is the purpose of this bylaw to protect the public interest, welfare, health and safety within the Town of Walpole by prohibiting the service to and consumption of alcoholic beverages and drugs by persons under the age of twenty-one (21) at private premises located within the Town. The Walpole Coalition for Alcohol and Drug Awareness finds that the occurrence of social gatherings at private premises where alcoholic beverages or drugs are served to or consumed by persons under the age of twenty-one (21) is harmful to such person themselves and a threat to public welfare, health and safety. The Walpole Coalition for Alcohol and Drug Awareness finds further that persons under the age of twenty-one (21) often obtain alcoholic beverages or drugs at such gatherings and that persons who rent, own, or otherwise control the premises at which such service and/or consumption is occurring will be more likely to ensure that alcoholic beverages and drugs are neither served to nor consumed by persons under the age of twenty-one (21) at these gatherings when there are potential penalties for violations.

Section 468-2: Definitions:

For purposes of this section, the following terms shall be defined as follows: "Alcoholic beverage" means any liquor, wine, beer, spirits, cider or other liquid or solid, patented or not, composed of or containing alcohol or spirits, whether or not brewed, fermented or distilled, and capable of being consumed by a person. "Control" means the authority and ability to regulate, direct, or dominate. "Drug" means any substances recognized as drugs in the official United States Pharmacopeia of the United States or official National Formulary or any supplement to any of them; or any substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; or any

substances, other than food, intended to affect the structure, or any function of the body of man and animals.

"Open House Party" means a social gathering at a residence or other private property with minors present.

"Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association or a partnership.

"Premises" means a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, whether occupied as a dwelling, party, or other social function, and whether owned, leased, rented, or used with or without compensation. The term "Premises" shall also include private functions held at public facilities within the Town of Walpole.

#### Section 468-3: Prohibited Activity:

Any Person who owns, rents or otherwise Controls any Premises shall be responsible when an Open House Party takes place at said Premises where any Alcoholic Beverage or Drug is being unlawfully possessed, served to or consumed by Persons under the age of twenty-one (21) at these gatherings at said Premises.

#### Section 468-4: Exemptions:

The provisions of this section shall not apply to:

- 1) The possession or consumption of a Drug for which the individual has a current, valid prescription or as otherwise permitted by any other applicable law.
- 2) The consumption of Alcoholic Beverages which occurs exclusively by a Person under the age of twenty-one (21) in the immediate presence of and so directed or authorized by his/her parent/grandparent or legal guardian.
- 3) The practice of legally recognized religious observances.

#### Section 468-5: Penalties & Enforcement:

Failure to comply with subsection 468-3 herein shall constitute a violation of this bylaw punishable by a fine or warning as outlined below. Fines may be assessed at the discretion of the enforcing officer by criminal complaint or by noncriminal disposition in accordance with Chapter 295 of the Town Code.

##### 1) Penalties:

- a) A first violation of this bylaw shall be punishable by a warning which shall be issued by the Walpole Police Department.
- b) A second violation of this bylaw at the same premises or by the same person, within a twelve (12) month period shall be punishable by a fine of \$150 plus an administrative recoupment of Police expenses dealing with this violation not exceeding \$1,000.
- c) A third or subsequent violation of this bylaw at the same premises or by the same person, within a twelve (12) month period shall be punishable by a fine of \$300 plus an administrative recoupment of Police expenses dealing with this violation not exceeding \$1,000.

##### 2) Enforcement:

- a) The enforcement of this bylaw shall be delegated to the Chief of Police and/or his designee(s), which for the purposes of this section shall mean any sworn police officer of the Walpole Police Department.

#### Section 468-6: Calculation of Time For Penalties

The fine schedule prescribed at subsection (e) is based upon a "rolling schedule" meaning that in calculating the fine payable, the Town of Walpole shall count backward starting from the date of the most recent violation of this by law to determine how many previous violations of said by law have taken place at the Premises or been committed by the same person during the statutory twelve (12) month period. A warning given pursuant to this by law shall remain in effect for the Premises until a full twelve (12) month period has elapsed during which there has been no response to the premises.

#### Section 468-7: Appeals

Any Person upon whom is imposed a fine/penalty pursuant to this bylaw shall have the right to appeal the imposition of such fine/penalty in a non-criminal proceeding by making a written request within 21 days to the Clerk Magistrate in Wrentham District Court. Assessments of recoupment costs, if any, shall be by criminal complaint in the Wrentham District Court.

**Section 468-8: Severability/Consistency With Other Laws:**

If any part or provision of this section shall be deemed to be inconsistent with any federal or state statute, law, rule, or regulation, then such statute, rule or regulation shall prevail.

If any part or provision of this section or the applicability thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this section, or the application thereof to other persons or circumstances.

Or to act or do anything in relation thereto. (Petition of Board of Selectmen)

**ARTICLE 15:** To see if the Town will vote to accept as a public way the roadway layout known as “Walpole Park South” as heretofore laid out by the Board of Selectmen and shown as a 55-foot wide way labeled as “Walpole Park South” on Plan No. 11287N, Sheet 2 of 2 as filed with the Norfolk County Registry District of the Land Court on December 2, 1986 in Registration Book 621, Page 159 and on file with the Town Clerk, and to authorize the Board of Selectmen to acquire, by gift, purchase, and/or eminent domain the necessary easement interests to use the Walpole Park South roadway layout for all purposes for which public ways are used in the Town of Walpole, together with any and all permanent drainage, access and utility and other easements related thereto, except that the sewer infrastructure known as the Walpole Park South Sewer Pump Station and all associated sewer piping and infrastructure and other appurtenances associated with the pump station shall be excluded from this acceptance and dealt with separately, and, furthermore, to appropriate the sum of \$304 for recording documents at the Registry of Deeds and to take any other action relative thereto.( Petition of Board of Selectmen)

**ARTICLE 16:** To see if the Town will vote to authorize the Board of Selectmen to acquire, on behalf of the Town, by gift, purchase or eminent domain, all necessary easements to own and control the Walpole Park South Sewer Pump Station and all associated land, sewer piping and sewer infrastructure other appurtenances associated thereto, including sewer pipes, lines and all other facilities associated therewith, as approximately shown on Plan No. 11287N, Sheet 2 of 2 as filed with the Norfolk County Registry District of the Land Court on December 2, 1986 in Registration Book 621, Page 159, and on such terms and conditions as the Board of Selectmen shall deem appropriate and necessary and to take any other action relative thereto. (Petition of the Board of Selectmen)

**ARTICLE 17:** To see if the Town will vote to grant Donnell W. Murphy, Trustee of Walpole Park Realty Trust, his successors and assigns the perpetual rights and easements to construct, inspect, repair, remove, replace, operate and forever maintain the forced main with any manholes, pipes, conduits and other appurtenances and to do all other acts incidental to the foregoing, including the right to pass along and over the land for the aforesaid purposes, in, through and under the land area within Pine Street as shown on the plan entitled “PINE STREET SEWER EASEMENT PLAN OF LAND IN WALPOLE, MA,” dated August 22, 2013, prepared by Paul J. Desimone, PLS, to be filed at the Norfolk Registry of Deeds with said easement, (and as particularly described in Exhibit A hereto) and to take any other action relative thereto. (Petition of the Board of Selectmen)

**ARTICLE 18:** To see if the Town will vote, pursuant to the provisions of M.G.L. c.59, s. 38H to authorize the Board of Selectmen and Board of Assessors to enter into a payment in lieu of tax agreement (PILOT) with the lessee/operator of the solar

photovoltaic energy generating facility to be developed at 33 Industrial Road and shown on Assessor's Map 46 Parcel 47 upon such terms and conditions as the Board of Selectmen, and Board of Assessors shall deem to be in the best interest of the Town, and to take any action in relation thereto. (Petition of the Board of Selectmen)

And you are hereby directed to serve this warrant by posting attested copies thereof in at least two public places in each precinct in said Town not less than seven days before the day appointed for said meeting.

Hereof fail not make due return of this warrant with your doings thereon to the Town Clerk before the day set for said meeting.

Given under our hands and the seal of the Town this     day of September in the year Two Thousand and Twelve.

**BOARD OF SELECTMEN**

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A true copy:  
By virtue of the within warrant I have notified the inhabitants of the Town of Walpole qualified to vote in elections and town affairs, to meet at the time and place for the purpose mentioned in said warrant by posting attested copies thereof in at least two public places in each precinct of said town not less than seven days before the day appointed for said meeting.

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Constable of Walpole

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Date Posted